

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD.,)	
)	
Plaintiff,)	REDACTED -
)	PUBLIC FILING
v.)	C.A. No. 21-1015 (LPS)
)	
SAREPTA THERAPEUTICS, INC.,)	
)	
Defendant.)	

**DEFENDANT SAREPTA THERAPEUTICS, INC.’S
UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL**

Defendant Sarepta Therapeutics, Inc. (“Sarepta”) hereby moves the Court for an Order permitting it to file this Motion to Seal and its Answering Brief in Opposition to Plaintiff Nippon Shinyaku Co., Ltd.’s (“Nippon Shinyaku”) Motion for Preliminary Injunction under seal. Sarepta’s counsel has conferred with counsel for Nippon Shinyaku, and they do not oppose this motion. The grounds for this motion are as follows:

1. This action arises, in part, [REDACTED]
[REDACTED] Sarepta’s alleged [REDACTED]
[REDACTED] basis for Nippon Shinyaku’s asserted [REDACTED] claim in its Complaint and for the Motion for Preliminary Injunction.

2. [REDACTED]
[REDACTED]
[REDACTED]

3. The Answering Brief in Opposition to Plaintiff Nippon Shinyaku Co., Ltd.’s Motion for Preliminary Injunction [REDACTED]

4. This Court has the “inherent equitable power to grant confidentiality orders.” *Pam, y v. Borough of Stroudsburg*, 23 F.3d 772, 785-86 (3d Cir. 1994). Although there is a “presumption in favor of public accessibility,” the Court has authority to seal documents “when justice so requires,” provided the party requesting sealing demonstrates that the “interest in secrecy outweighs the presumption” of access. *In re Motions for Access of Garlock Sealing Techs. LLC*, 488 B.R. 281, 299-300 (D. Del. 2013) (quoting *LEAP Sys., Inc. v. MoneyTrax, Inc.*, 638 F.3d 216, 221-22 (3d Cir. 2011)). Thus, “courts may deny access to judicial records, for example, where they are sources of business information that might harm a litigant's competitive standing.” *Littlejohn v. Bic Corp.*, 851 F.2d 673, 678 (3d Cir. 1988) (citing *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 598 (1978)); *see also* Fed. R. Civ. P. 26(c)(1)(G) (identifying “confidential ... commercial information” as one category of information that can be protected via court order); *see also Mylan Inc. v. SmithKline Beecham Corp.*, 723 F.3d 413, 415 n.3 (3d Cir. 2013) (finding good cause to seal documents “to protect the parties' confidential proprietary business and competitive interests”). Where a party relies on assurances of confidentiality in entering into agreement, that party has a privacy interest preventing disclosures of its non-public, confidential business and financial information. *See LEAP Sys.*, 638 F.3d at 222.

5. Permitting Sarepta to file this Motion to Seal and its Answering Brief in Opposition to Plaintiff Nippon Shinyaku Co., Ltd.’s Motion for Preliminary Injunction under seal will preserve the status quo with respect to [REDACTED]

[REDACTED] These interests in secrecy outweigh any presumption or interest that may exist in favor of public access to [REDACTED]

WHEREFORE, Sarepta respectfully requests that the Court issue an Order in the form attached hereto permitting Sarepta to file this Motion to Seal and its Answering Brief in Opposition to Plaintiff Nippon Shinyaku Co., Ltd.'s Motion for Preliminary Injunction under seal and for these documents to remain under seal.

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August 11, 2021

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SAREPTA THERAPEUTICS, INC.,)	
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Defendant.)	

[PROPOSED] ORDER

This ____ day of August, 2021, the Court having reviewed Defendant Sarepta Therapeutics, Inc.’s (“Sarepta”) Motion to Seal its Motion to Seal and its Answering Brief in Opposition to Plaintiff Nippon Shinyaku Co., Ltd.’s Motion for Preliminary Injunction, and the Court having determined good cause exists for the requested sealing, now therefore,

IT IS HEREBY ORDERED that Sarepta’s Motion to Seal is GRANTED.

The Honorable Leonard P. Stark
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2021, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on August 11, 2021, upon the following in the manner indicated:

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